HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.4701/2007

Single Bench: **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

Petitioner (Non-applicant No.3)		United India Insurance Company Limited, R.B. Traders, 1st Floor, Satyam, Road, T.P. Nagar, Korba, Tah & Distt. Korba (CG)
		Versus
Respondents (Applicant No.1)	1.	Smt Butaki Bai Wd/o Dalvir Das, aged 52 years,
(Applicant No.2)	2.	Ku. Pushpa D/o Jagdeo Das, aged 4 years,
(Applicant No.3)	3.	Ku. Nirmala D/o Jagdeo Das, aged 2 years.
		Respondent No. 2 & 3 are minor through their ad litem guardian-Smt. Butki Bai Wd./o Dalvir Das (respondent No.1) All are R/o Vill-Jogipali, P.S. & Tah Kartali, Distt.Korba (CG)
(Non-applicant No.2)	4.	Chhatrapal S/o Mugaluram, aged 36 years, R/o Vill Patarapali, P.S. & Tah-Kartala, Distt-Korba (CG) (Driver)
(Non-applicant No.2)	5.	Ramkumar S/o Maniram Kanwar, R/o vill-Ghanora, P.S. & Tah-Kartala, Distt-Korba (CG)

Writ petition under Article 227 of the Constitution of India.

Present:-
Shri Dashrath Gupta, counsel for the petitioner.
Respondents No.1, 2, 3 & 5 absent though served.
Respondent No.4 is not yet served.

ORAL ORDER

(Passed on 23rd October, 2007)

At the request of the learned counsel for the petitioner, this writ petition is being finally disposed of at the stage of admission.

(2) The petitioner/insurer is aggrieved by an order dated 9.5.2007 passed by the IInd Additional Motor Accident Claims Tribunal, Korba (hereinafter

referred to as the M.A.C.T) in claim case No.13/2007 whereby while dismissing the application under Section 148 of C.P.C. filed by the petitioner, the right to file written statement of the petitioner was closed.

(3) Brief facts are that an application was filed by the petitioner before the M.A.C.T. under Section 148 of C.P.C. for enlarging time for filing written statement. Cogent reasons ~~for~~ were given in the application that due to time consumed in verification of the policy of Insurance, a copy of which was given to the petitioner on 12.4.2007, delay had occurred in filing written statement. A copy of the written statement was also filed along with the application under Section 148 C.P.C. The M.A.C.T. ought to have considered the application on merits and should have given cogent reasons for refusing to enlarge time. The rejection of the prayer for enlargement of time by the M.A.C.T, in a mechanical manner has thus, resulted in failure of justice.

(4) In this view of the matter, the writ petition is allowed. The Impugned order dated 9.5.2007 passed by the IInd Additional Motor Accident Claims Tribunal, Korba is set aside. Application under Section 148 C.P.C. is allowed. The written statement filed by the petitioner ~~along~~ with the application under Section 148 C.P.C. shall be taken on record.

(5) In view of the above, writ petition (C) stands disposed of.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya